

**GOVERNMENT OF THE DISTRICT OF COLUMBIA**  
**BOARD OF ZONING ADJUSTMENT**



Application No. 13742, of Morris Fischer, pursuant to Sub-section 8207.2 and Paragraph 8207.11 of the Zoning Regulations, for a special exception under Paragraph 4101.41 to continue to operate a parking lot and for a variance from the prohibition against all-day commuter parking (Sub-paragraph 4101.413) in an HR/SP-2 District at the premises 709-15 6th Street, N.W., (Square 486, Lots 8, 801, 802 and 803).

HEARING DATE: April 28, 1982  
DECISION DATE: May 5, 1982

FINDINGS OF FACT:

1. The subject site is located on the east side of 6th Street between G and H Streets and is known as premises 709-15 6th Street, N.W. It is in an HR/SP-2 District.

2. The Board in BZA Order No. 12210, dated March 24, 1977, granted the special exception to continue the parking lot for a term of five years. The applicant now seeks special exception relief and a variance from the prohibition against all-day commuter parking.

3. The subject parking lot is 6,375 square feet in area. It has facilities for twenty-six cars.

4. Entrance and exit from the parking lot is from 6th Street through a twenty-five foot drive. Immediately east of the driveway is an attendant's shack. The attendant parks all cars and he is present all day. The hours of operation are from 7:00 A.M. to 6:00 P.M., Monday through Friday.

5. The attendant polices the lot daily. The applicant testified that he has received no complaints about the operation and maintenance of the lot.

6. The immediate area surrounding the parking lot comprises Government Court buildings, the General Accounting Office building, the Pension Building, Bergman's Laundry building, Metro Headquarters and a few scattered residential buildings some of which are vacant.

7. Approximately two-thirds of the parking spaces are used for all-day commuter parking. There are approximately sixteen monthly contracts. The applicant testified that the immediate area does not engender short-term parking. There are few shops in the area. Those retail stores that exist cater to an immediate and sole service.

8. The applicant testified that the lot is in full compliance with the previous Orders of the Board.

9. The applicant has no immediate plans to develop the lot. The present adverse economic climate is not conducive to purchasing lots for construction. The applicant also believes that the subject zoning district limits the potential for future development.

10. There was no opposition to the application.

11. Advisory Neighborhood Commission 2C made no recommendation on the application.

CONCLUSIONS OF LAW AND OPINION:

Based on the record, the Board concludes that the applicant is seeking a special exception and a variance. The Board concludes that the application as to the special exception meets the requirements of Paragraph 4101.41 of the Zoning Regulations. The operation of the lot is so designed that it is not likely to become objectionable to adjoining and nearby property because of noise, traffic or other objectionable conditions and that the present character and future development of the neighborhood will not be affected adversely by its use. The Board further concludes that the special exception relief can be granted as in harmony with the general purpose and intent of the Zoning Regulations and will not affect adversely the use of adjoining property.

As to the variance, the Board concludes that the requested variance is a use variance, because the variance requested relates to the manner in which the parking spaces will be used. In order to grant a use variance, the applicant must demonstrate that there is an undue hardship upon the owner arising out of some unique or exceptional condition of the property. The Board concludes that the subject site at present has no reasonable use other than the continuation of the existing parking facility. The Board concludes that there are not sufficient facilities in the area to generate enough demand for short-term parking and that restriction of use of the lot other than commuter parking only would create a hardship for the owner.

The Board further concludes that the variance can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map. The proposed parking lot use because of its nature of operation will not adversely affect the present character and future development of the neighborhood. Therefore, this use, as further conditioned by this Order, is appropriate for the site.

The subject Paragraph 4101.41 of the Zoning Regulations provides that a parking lot in existence on October 5, 1978 under approval by the BZA may be permitted by the Board to continue in existence for a period not to exceed four years from the date that the present Certificate of Occupancy expires.


Accordingly, it is ORDERED that the application is GRANTED in its entirety, SUBJECT to the following CONDITIONS:

- a. Approval shall be for a period of FOUR YEARS from the date of expiration of the previous Order, namely from March 24, 1982.
- b. All areas devoted to driveways, access lanes, and parking areas shall be maintained with a paving of material forming an all-weather impervious surface.
- c. Bumper stops shall be erected and maintained for the protection of all adjoining buildings.
- d. No vehicle or any part thereof shall be permitted to project over any lot or building line or on or over the public space.
- e. All parts of the lot shall be kept free of refuse or debris and shall be paved or landscaped. Landscaping shall be maintained in a healthy growing condition and in a neat and orderly appearance.
- f. No other use shall be conducted from or upon the premises and no structure other than an attendant's shelter shall be erected or used upon the premises unless such use or structure is otherwise permitted in the zoning district in which the parking lot is located.
- g. Any lighting used to illuminate the parking lot or its accessory building shall be so arranged that all direct rays of such lighting are confined to the surface of the parking lot.

VOTE: 4-0 (William F. McIntosh, Connie Fortune, Douglas J. Patton and Charles R. Norris to GRANT; Walter B. Lewis not voting, not having heard the case).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY:

  
STEVEN E. SHER  
Executive Director

FINAL DATE OF ORDER: SEP 24 1982

UNDER SUB-SECTION 8204.3 OF THE ZONING REGULATIONS "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF LICENSES, INVESTIGATIONS, AND INSPECTIONS.